



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

position as to the social interest in free speech. He recognizes that the free speech issue today is at bottom not political but economic. "It is simply a choice of two economic systems and we have got to have that controversy discussed if we are going to decide it rightly." Yet the Espionage Act was used almost exclusively against economic dissenters, the state sedition and criminal syndicalism laws are aimed mainly at economic heretics and remain to be used against them. They are a weapon in the economic struggle, unnecessary and therefore unused while depression gives economic power to the possessors, to be wielded when returning prosperity gives protesting and propertyless producers courage and ability to seek a changed economic system. In that situation, in the light of recent Supreme Court decisions in labor cases, with a majority opinion on record that identifies an appeal to "put down capitalism" with an appeal to "put down by force the government of the United States",⁶ it is evident that very much less than the minimum amount of discussion necessary for the public to find its way between the claims of the contending economic systems would constitute "a clear and present danger."

It is noticeable that when Professor Chafee moves among the almost incredible facts of the deportation cases, his demand for objective tests of criminality becomes stronger. He even says "let us limit punishment to overt acts." Certainly the closer to overt acts we draw the line of government interference with speech, the less likelihood there is of injustice and of suppressing discussion invaluable to the social interest, and by a strange but historically demonstrated paradox the less likelihood also of having finally to deal with overt acts. But to draw this line accurately, in the present free speech issue, which turns about the relation between the advocacy of economic change and overt acts against the government, those who interpret the law must know the facts of the economic situation. Such contact with facts always humanizes and socializes the law. Meantime we have upon our books legislation restricting freedom of speech, and an attitude of repression, unknown since the infamous but expiated Alien and Sedition Acts, and the economic struggle grows daily more acute.

HARRY F. WARD

UNION THEOLOGICAL SEMINARY

INTERNATIONAL LAW AND THE WORLD WAR. By JAMES WILFORD GARNER. New York: LONGMANS, GREEN & Co. 1920. Vol. I, pp. xviii, 524; Vol. II, pp. xii, 534.

This work is one of the series of Contributions to International Law and Diplomacy, edited by the late Professor Oppenheim of the University of Cambridge.

These two volumes of more than five hundred pages each are divided into thirty-eight chapters and five hundred and ninety-five sections. The chapters, some of which have for the most part been printed in the *American Journal of International Law*, cover such matters as the status of international law at the outbreak of the war, treatment of enemy diplomatic and consular representatives, of enemy aliens, of enemy merchant vessels in port, transfers to neutral flags, trade and intercourse, instruments of war, hostages, devastation, submarine warfare, defensively armed merchant vessels, bombardments, aerial warfare, Geneva Convention, prisoners, military government, contributions, fines, and the like, deportation, neutralization, destruction of merchant vessels, contraband, continuous voyage blockades, mails, exportation of arms, effect of the war on international law, and the outlook for the future. More than one chapter is given to some of the above topics. This is a large field even for two bulky volumes.

⁶ *Abrams v. United States* (1919) 250 U. S. 616, 620, 40 Sup. Ct. 17.

In his preface Professor Garner says that in writing this book it was proposed that he should

"review the conduct of the belligerents in respect to their interpretation and application of the rules of international law, compare it with the opinion of the authorities and the practice in former wars and wherever infractions appeared, to endeavor to determine the responsibility and to place it where it properly belongs."

And he further says he has

"made a conscientious effort to evaluate the evidence so far as it was available, and wherever possible to arrive at conclusions as to the truth or falsity of the charges and counter-charges in respect to infractions."

Professor Garner realizes the difficulty of the undertaking, as the evidence is not in, though he is inclined to doubt whether the inaccessibility of German evidence "was a loss of any real consequence." He also recognizes the difficulties due to the mass of material which must be canvassed.

Throughout, the book shows how far beyond the limits of earlier wars this war has become a war of people against people in which all property public and private has been involved. The differences of interpretation, even among allies, of Article 23 (h) of the Hague Convention relative to the Laws and Customs of War on Land, are set forth in Chapter IX. Chapter XVI upon the status of defensively armed merchant vessels opens a question upon which there is still much difference of opinion. It may be fairly asked whether Mr. Lansing's note of January 18, 1916 does not more nearly accord with the correct principles of law than the State Department's circular of September 19, 1914, or the memorandum of March 26, 1916. The discussion in some of these notes seems to fail to recognize the complications due to the possibility of the conversion of merchant vessels into vessels of war. It is difficult to put any limit upon the actions of vessels at sea if it is granted that

"there is, in fact, no sound distinction between the right of a merchant vessel to repel an attack directed against it and its right to forestall an attack by itself first taking the initiative." (I, 398.)

Doubtless the vessel of war might claim a right likewise "to forestall an attack by itself first taking the initiative", which would justify attack upon sight by either party. The protection of private property at sea under such principles would be uncertain. There may be proper limits to the action of submarines as well as to that of merchant vessels, though probably all would agree that

"To hold that a merchant vessel may arm and defend itself against the attacks of privateers and pirates and yet to argue that it has no lawful right to resist the attacks of submarines which sink their victims without warning is illogical and absurd." (I, 407).

All seems to be said that can justly be claimed for German prison camps, because due consideration is given to the tax placed upon them in the early days by the large number of prisoners from the different fronts (Vol. II, chaps. xxi-xxii). It is clearly shown that the military government in Belgium extended its authority beyond its legitimate sphere, particularly in exaction of contributions and requisitions in seizing private property, requiring compulsory labor, *etc.* In many respects the German rules of war were not however textually unlike those of other states; but it was the administration of these rules that showed the marked contrast.

Fuller consideration of Italy's treatment of shipping at the outbreak of war would make clearer the differences between Italian practice and that of other states. It is not possible, however, to criticise fairly the weight or lack of weight given to certain topics, because the author has been compelled, as he himself states, to esti-

mate the value of charges and counter-charges as to the truth of which sufficient evidence is not yet available. If the author, at the time of writing some of the chapters, had had access to the German prize courts decisions as well as to some of the German decisions upon alien enemy property rights, he would probably not have maintained in his preface his doubt as to "whether their inaccessibility was a loss of any real consequence."

In reading these volumes it must be borne in mind that much material from different countries is not yet available. Manifestly the complete treatise on International Law and the World War will require consideration of the points of view of all parties. While there are a few misprints and minor errors, in general the material, presentation, and index make these volumes a worthy addition to the series to which they belong and also a most helpful first effort toward the elucidation of the intricate problems arising from the world war.

The price, twenty-four dollars, is indicative of the effect of the world war.

GEORGE G. WILSON

HARVARD UNIVERSITY

SHIPPERS & CARRIERS OF INTERSTATE AND INTERSTATE FREIGHT. Third Edition. By EDGAR WATKINS, LL. B., of the Atlanta Bar. Atlanta, Georgia: THE HARRISON COMPANY. 1920. 2 vols. pp. 1778.

The history of a family may sometimes be read in outline by examining the architecture of the house in which it lives. First, when there were few or no children and when resources were limited, there was built a house of moderate size which, though its rooms were few, was complete in itself and met all the family's needs for sheltered spaces in which to sit, eat, and sleep. As the family and fortune gradually increased, rooms were added one at a time, this room being placed on this side, that room being put in that angle, now a room here, then a lean-to there, with the final result, a home which makes up in friendly convenience and easy utility what it lacks in plan and symmetry. Ignore chronology and you have a fair picture of the general arrangement of Watkins on *Shippers and Carriers*.

First as to the central structure. It consists of four parts. (1) General and introductory matter is dealt with in Chapter II under the heading, the validity and scope of the Act to Regulate Commerce. Here are considered such general questions as conditions leading to the passage of the Act, its constitutionality, the scope of the Act as to carriers and as to acts of transporting, and the powers of the Interstate Commerce Commission. In the midst of such general discussions, the author, here as elsewhere, sometimes unexpectedly drops to the discussion of such minutiae as switch connections. (2) The regulation of rates and charges under the Act is considered in Chapters III and IV. Here is given about as adequate a treatment of the multitude of considerations entering into the standard, "reasonable rate", as is possible in two hundred pages, not a few of which are largely filled with quotations from opinions. Here, too, is to be found a good general survey of the problems of discrimination in rate structures. There is no analysis of the concept "equality in rates" adequate to disclose the underlying questions of policy. The modern carrier is not seen as one of the devices which are shaping, directing, and controlling the industrial and commercial activities of the country. (3) The machinery for enforcing the Act is the subject of Chapters V, VI and VII. Herein the author is at his best. His account of the administrative functioning of the Interstate Commerce Commission, of the procedure of the Commission, and of the enforcement of the Act by the courts is an excellent piece of work of great utility to those handling legal problems in this field. (4) Superimposed, attic fashion, upon the other three parts of the main structure, is Chapter IX containing an